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MAR 11 2011

OFFICE OF PETITIONS

In re	:
Takashi Fujita	: DECISION REGARDING
Application No. 10/577,999	: PATENT TERM ADJUSTMENT
Filed: May 3, 2006	:
Attorney Docket No. 062489	:

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)", filed December 30, 2010. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred seventy (370) days to four hundred thirty-eight (438) days.

The application for patent term adjustment is DISMISSED.

On October 1, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is three hundred seventy (370) days. On December 30, 2010, Applicant timely¹ submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is four hundred thirty-eight (438) days.

Applicant states that the patent is not subject to a terminal disclaimer.

¹ Applicant filed the application for patent term adjustment together with the filing of the issue fee.

The Office initially determined a patent term adjustment of three hundred seventy (370) days based on an adjustment for PTO delay of four hundred sixty-one (461) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and seven (7) days pursuant to 35 U.S.C. 154(b)(1)(a)(iI) and 37 C.F.R. 1.703(a)(2), reduced by Applicants' delays of fifteen (15) and fifteen (15) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. 1.704(b), and sixty-eight (68) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(8). The adjustment of sixty-eight (68) days is at issue.

37 CFR 1.704(d) states:

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable. (Emphasis added).

Here, the IDS filed on November 4, 2009 was not accompanied by the statement set forth above. Accordingly, the assessment of 68 days of applicant delay with respect to this IDS was proper.

Receipt of the \$200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Anthony Knight
Director
Office of Petitions